

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	8:13-CR-00106
)	
Plaintiff,)	
)	
vs.)	MOTION TO SUPPRESS
)	EVIDENCE AND STATEMENTS
WARREN TIDWELL,)	
)	
Defendant.)	

COMES NOW the Defendant, Warren Tidwell , by and through undersigned counsel, and requests that the Court, pursuant to Fed. R. Crim. P. 12(b)(3)(C), suppress all evidence resulting from the search warrant, “In the Matter of the Search of computers that access the website “Hidden Service A” which is located at oqm66m6iyt6vxk7k.onion,” (Hereinafter referred to as “Hidden Service A” warrant.) Defendant further moves to suppress all evidence not listed in the inventory resulting from the search warrant, “In the Matter of the Search of Premises Known as 9120 Snowberry Drive, Oklahoma City, Oklahoma 73165” (hereinafter referenced to as “Residence Search Warrant”), pursuant to Fed. R. Crim. P. 41(f)(1). In support of this motion, Defendant respectfully submits the following:

1. Defendant seeks the suppression based upon the Government’s failure to comply with Title 18 U.S.C. § 3103a(b)3 and Fed. R. Crim. P. 41(f)(1)(C) in relation to the “Hidden Service A” warrant.
2. More specifically, while the application for the search warrant authorized a 30 day delay in the notice required under Rule 41(f)(1)(C), the government failed to provide any notice to Defendant of the search of the computers in his residence, including the search and seizure of this IP address, and the search and seizure of the operating systems of his computer(s)

in his home.

3. Defendant has a reasonable expectation of privacy in the IP address assigned to his residence as well as the operating system his computers utilize.
4. The administrative subpoena to Cox Communications violated Defendant's Fourth Amendment rights.
5. Additionally, the Government has failed to comply with Rule 41(f)(1)(B) &(D) and 18 U.S.C. § 3103a(b)3 by failing to return an inventory of the seized information after the execution of the "Hidden Service A" warrant.
6. The failure to return an inventory of the seized information appears not to be accidental, incidental, or an oversight on the part of the Government, but rather a systematic, intentional violation of the Rule 41(f)(1) and 18 U.S.C. § 3103a(b)3.
7. The Government apparently adopted a policy of intentional disregard to the requirements of Rule 41(f)(1) and 18 U.S.C. § 3103a(b)3, as evidenced by the multiple failures to return inventories of in the search warrants of: (1) "Hidden Service A," in the case at bar (8:13CR106), (2) in the warrant used in case 8:13CR107, titled "In the Matter of the Search of computers that access the website "Bulletin Board A" located at <http://jkpos24pl2r3urlw.onion>," and, (3) in the warrant used in case 8:13CR108, titled "In the Matter of the Search of computers that access the website "Hidden Service B" which is located at s7cgvir5wvoqli5.onion."
8. Based upon the acquisition of Defendant's IP address from the "Hidden Service A" search warrant, the "Residence Search Warrant" was obtained, and a seizure and search of Defendant's home and computers was conducted on April 9, 2013. A

statement by Defendant was also obtained.

9. As a result of the “Residence Search Warrant,” an inventory was prepared.
10. However, the inventory omitted a seized computer tablet.
11. The Government failed to comply with Fed. R. Crim. P. 41(f)(1) by not listing the seized computer tablet on the inventory.

WHEREFORE, Defendant request that all evidence and statements obtained as a result of the search warrants be suppressed and further relief as the Court may deem just and equitable.

WARREN TIDWELL, Defendant, By:

s/Joseph L. Howard
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CERTIFICATE OF SERVICE

I hereby certify that on January 9, 2014, I electronically filed the foregoing document with the Clerk of the District Court using the CM/ECF system which sent notification of such filing to the following:

Michael P. Norris, United States Attorney

s/Joseph L. Howard
Joseph L. Howard, #22743
DORNAN, LUSTGARTEN & TROIA
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